

FOR CONTRACT NO: 08-0C2104

INFORMATION HANDOUT

California Department of Fish and Game
Streambed Alteration Agreement (1602 Permit)

ROUTE: 08-Riv-62-85.0

CALIFORNIA DEPARTMENT OF FISH AND GAME
INLAND DESERTS REGION
78078 COUNTRY CLUB DRIVE, SUITE 109
BERMUDA DUNES, CA 92203



STREAMBED ALTERATION AGREEMENT
NOTIFICATION No. 1600-2011-0010-R6
2 UNNAMED DRAINAGES, TRIBUTARIES TO CADIZ DRY LAKE

CALIFORNIA DEPARTMENT OF TRANSPORTATION
STATE ROUTE 62 CULVERT REPLACEMENT PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and the California Department of Transportation (Permittee), as represented by Mr. Craig Wentworth

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on January 31st, 2011 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, DFG has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

The project is located within **2 unnamed washes, Tributaries to the Cadiz Lake**, T1S, R17E, S32 NE, San Bernardino County.

PROJECT DESCRIPTION

The project is limited to State Route 62 between mile posts 85 and 85.1, spanning 2 unnamed washes, in San Bernardino County and consists of the replacement of two existing 30 inch corrugated metal pipes (CMPs) with two 36 inch CMPs using a top down excavation method. The pipes will be replaced from the top of the roadway. No excavation or heavy equipment is required at the inlets or outlets of both washes. Project personnel may be required to enter the washes to assist with the work with hand tools. No rip-rap will be installed. No water diversion will be required. The proposed project will be performed from the top of the road. There will be no heavy equipment in

the wash. Minimal manual work may be required in the areas adjacent to the inlets/outlets of the pipes. Total linear feet of the pipes is: 167.29 feet. Total acreage of the pipes is 0.017 acre. No additional impacts are expected to occur. Several creosote bushes (*Larrea tridentata*) that are present in the existing SR-62's slopes will be impacted.

PROJECT IMPACTS

Installation of the piles would permanently impact a total of 0.017 acre desert wash. A Natural Environment Study was conducted in the area in August 2007. This was compared with the biological record search of the California Natural Diversity Database (CNDDDB) to identify species historically known to occur within the surrounding areas of the proposed project. The proposed project is located in potential habitat for the Desert Tortoise (*Gopherus agassizii*), a federally and state threatened species. Therefore, the Applicant agrees use a Caltrans approved Biological monitor conducting preconstruction surveys to determine whether the project requires the installation of desert tortoise fencing around the project limits and any staging/storage areas. This pre-construction survey will include the insides of the 2 old culverts themselves. Furthermore, the Applicant agrees not to park vehicles or store equipment in undisturbed or riparian areas. If it is determined that temporary desert tortoise fencing is needed for the proposed project, the installation of this fencing will be the first order of work. No mitigation is proposed because of this small area of impact.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to DFG personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a

provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact Permittee to resolve any conflict.

- 1.4 Project Site Entry. Permittee agrees that DFG personnel may enter the project site at any time to verify compliance with the Agreement.
- 1.5 Take of Nesting Birds. Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit the take of all birds and their active nests, including raptors and other migratory non-game birds (as listed under the United States Migratory Bird Treaty Act).

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

- 2.1 Biological Monitor. A qualified biologist shall be onsite to monitor all activities that result in the clearing or grading of sensitive habitat as well as grading, excavation, and/or other ground-disturbing activities in jurisdictional areas. The Permittee shall flag the limits of grading and the jurisdictional area, perform necessary surveys, and take photographs during the construction process, as required by this Agreement. The biological monitor is required to halt construction activities if threatened or endangered species are identified and notify the appropriate agencies immediately.
- 2.2 Pollution and Litter. The Permittee shall comply with all litter and pollution laws. All contractors, subcontractors, and all employees shall also obey these laws and it shall be the responsibility of the Permittee to ensure compliance.
 - 2.6.1 The Permittee shall not allow water containing mud, silt, or other pollutants from grading, aggregate washing, or other activities to enter a lake, streambed, or flowing stream or be placed in locations that may be subjected to high storm flows.
 - 2.6.2 Spoil sites shall not be located within a lake, streambed, or flowing stream or locations that may be subjected to high storm flows, where spoil shall be washed back into a lake, streambed, or flowing stream where it will impact streambed habitat and aquatic or riparian vegetation.
 - 2.6.3 Raw cement/concrete or washings, thereof, asphalt, paint, or other coating material, oil or other petroleum products, or any other substances which could be hazardous to fish and wildlife resources resulting from project-related activities shall be prevented from contaminating the soil and/or entering the waters of the State. These materials, placed within or where they may enter a lake, streambed, or flowing stream by the Permittee or

any other party working under contract or with the permission of the Permittee, shall be removed immediately.

- 2.6.4 No broken concrete, cement, debris, soil, silt, sand, bark, slash, sawdust, rubbish, or washings, thereof, oil or petroleum or other organic or earthen material from any construction or associated activity of whatever nature shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any lake, streambed, or flowing stream.
- 2.6.5 No equipment maintenance shall be done within or near any lake, streambed, or flowing stream where petroleum products or other pollutants from the equipment may enter these areas under any flow.

The Permittee shall compensate for temporary impacts to 0.017 acres of jurisdictional streambed by restoring the streambed to pre-construction conditions by ensuring the proper grade and topography of the site.

3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 Notification of Start of Construction. The Permittee shall notify the DFG, in writing, at least five (5) days prior to initiation of project activities in state jurisdictional areas as noted in Condition 2 above, and at least five (5) days prior to completion of project activities in jurisdictional areas as noted in Condition 2 above. Notification shall be mailed to the DFG Region 6, 4665 Lampson Avenue, Suite J, Los Alamitos, CA 90720, **ATTN: Streambed Team. Please reference SAA # 1600-2011-0010-R6.**

CONTACT INFORMATION

Any communication that Permittee or DFG submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or DFG specifies by written notice to the other.

To Permittee:

Craig Wentworth Torres
California Department of Transportation
464 West 4th street, 6th Floor
San Bernardino, CA 92401

To DFG:

Department of Fish and Game
Inland Deserts Region
4665 Lampson Avenue, Suite J
Attn: Lake and Streambed Alteration Program – Jim Sheridan
Notification #1600-2011-0010-R6
(562) 799-8427 (fax)
jsheridan@dfg.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute DFG's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

SUSPENSION AND REVOCATION

DFG may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before DFG suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before DFG suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused DFG to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes DFG from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects DFG's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 et seq. (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

DFG may amend the Agreement at any time during its term if DFG determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by DFG and Permittee. To request an amendment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective,

unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter DFG approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to DFG a completed DFG "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). DFG shall process the extension request in accordance with FGC 1605(b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code, § 1605, subd. (f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of DFG's signature, which shall be: 1) after Permittee's signature; 2) after DFG complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall expire on **July 31, 2012** unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

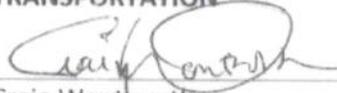
AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify DFG in accordance with FGC section 1602.

CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

**FOR THE CALIFORNIA DEPARTMENT OF
TRANSPORTATION**



Craig Wentworth
California Department of Transportation

4/20/2011

Date

FOR DEPARTMENT OF FISH AND GAME



David Elms
Environmental Program Manager

5-16-11

Date

Prepared by: Jim Sherindan
Environmental Scientist